

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

JOSEPH M. JACKSON,)
Petitioner,)
vs.) No. CIV-17-183-C
TRACY McCOLLUM, Warden,)
North Fork Correctional Center,)
Respondent.)

ORDER ADOPTING REPORT AND RECOMMENDATION

Petitioner filed the present action pursuant to 28 U.S.C. § 2241 seeking an adjustment to his sentence calculation. Pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B), the matter was referred to United States Magistrate Judge Suzanne Mitchell, who entered a Report and Recommendation (“R&R”) on April 4, 2017, recommending the Petition be denied. Petitioner has timely objected. Petitioner also seeks leave to amend his Petition.

The substantive facts and law are accurately set out in Judge Mitchell's R&R and there is no purpose to be served in repeating them yet again. As Judge Mitchell noted, Petitioner has failed to demonstrate and cannot demonstrate any entitlement to the relief he seeks. Nothing in Petitioner's Objection to the R&R or his Amended Objection to the R&R warrants additional discussion or offers any basis to alter Judge Mitchell's findings. Accordingly, habeas relief is not warranted.

To the extent Petitioner seeks leave to amend, the Court finds the amendments sought by Petitioner would be futile. Each of the proposed amendments is either

subsumed within the discussion and analysis in the R&R or raises an entirely new issue. Any new issue would constitute a second or successive petition. The Court is without jurisdiction to consider a second or successive petition absent authorization from the Tenth Circuit. See 28 U.S.C. § 2244(b)(3)(A). Consequently, the amended § 2254 requested by Petitioner would necessarily be dismissed for lack of jurisdiction. Thus, the proposed amendment is futile.

As set forth more fully herein, the Court adopts, in full, the Report and Recommendation of the Magistrate Judge (Dkt. No. 8). Petitioner's Motion for Summary Judgment (Dkt. No. 10); Request for Evidentiary Hearing (Dkt. No. 13); Request for Appointment of Counsel (Dkt. No. 14); and Motion for Leave to File an Amended Petition (Dkt. No. 16) are DENIED. A separate judgment will issue.

IT IS SO ORDERED this 10th day of May, 2017.



ROBIN J. CAUTHRON
United States District Judge